

ORIGINAL

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Francisco Division)

UNITED STATES OF AMERICA,
Plaintiff,

vs.

VICTOR CONTE, JR.,
JAMES VALENTE,
GREG ANDERSON, and
REMI KORCHEMNY,

Defendants.

Case Nos. CR-04-0044 SI &
CR 05-0455 SI

**DEFENDANT VICTOR CONTE JR.'S
SUBMISSION CONCERNING
PERSONAL BACKGROUND**

INTRODUCTION

At the Court's request, on October 4, 2005, Victor Conte submitted a memorandum that addressed the legal bases for the parties' joint sentencing recommendation. Counsel submit this supplemental memorandum to provide the Court with information concerning Mr. Conte's personal background and circumstances.

PERSONAL BACKGROUND

The Probation Office has done an excellent job of providing the Court with information about Mr. Conte's personal and professional background. Counsel offer the following to elaborate briefly on some of the matters discussed in the Presentence Report (PSR).

1 As an initial matter, counsel would direct the Court to Victor Conte's statement of the offense
2 attached to the PSR. Mr. Conte has acknowledged that he engaged in criminal conduct by providing
3 steroids to athletes. He has accepted full responsibility for his actions and understands the seriousness of
4 his criminal activity.

5 The exhibits attached to this memorandum provide additional information regarding Mr. Conte.
6 Among the letters attached as Exhibit A to this memorandum are letters from Mr. Conte's three
7 daughters. As noted in the PSR, some six years into their marriage, Mr. Conte's wife was diagnosed
8 with a serious mental illness. PSR at ¶53. The couple separated when their children were all teenagers,
9 and eventually all three moved in with their father. Mr. Conte raised the children on his own until they
10 went to college. All three daughters have written letters, and the letters speak for themselves. See
11 Exhibit A.

12 In addition to the support and guidance Mr. Conte provided to his daughters, he has been
13 supportive and generous to his extended family and friends. The letters from his mother, Shirley Conte,
14 and his daughter's friend, Tina T. Prasad, and from his children describe the assistance Mr. Conte has
15 provided to others in his community. See Exhibit A.

16 Mr. Conte has also made significant contributions in his professional life. Mr. Conte has long
17 been interested in the sciences of health and fitness, and he has used his knowledge and his laboratory to
18 assist with research on a variety of important problems. In the early 1990's, Mr. Conte was working with
19 a football player whose wife led a support group for women suffering from auto-immune diseases caused
20 by leaks in silicone breast implants. Mr. Conte became interested in the topic and assisted in the
21 development of a test to enable women to determine whether they had abnormal silicon levels in their
22 blood. In July 1996, Mr. Conte donated the use of his laboratory facilities at BALCO to study the
23 problem and co-authored an article entitled "Elevated Serum Silicon Levels in Women with Silicone Gel
24 Breast Implants." The article was published in the May 1995 issue of Biological Trace Element research
25 and later included in Volume #210 of the Current Topics in Microbiology and Immunology series,
26 *Immunology of Silicones*, published in 1996. See Exhibit B.

1 Mr. Conte also became involved through his work at BALCO in research related to HIV/AIDS.
2 Mr. Conte's experience analyzing minerals in athletes led him to speculate that persons with HIV/AIDS
3 might suffer from mineral depletions that could exacerbate their health problems. Mr. Conte contacted
4 Dr. Eric Gershwin, chief of clinical immunology at UC Davis, and Dr. Marcus Conant, a leading AIDS
5 research and director of the Conant Medical Group, to volunteer his services in collaborative studies on
6 the relationship between HIV disease and HIV wasting syndrome, among other topics. *See* Exhibit C.
7 BALCO funded the research, and Mr. Conte used BALCO laboratories to test the mineral levels of
8 hundreds of HIV patients. Through this work, Mr. Conte and the medical researchers discovered that
9 patients with HIV/AIDS had very low levels of zinc and high levels of copper in their blood, and that
10 they would benefit from concentrated mineral supplementation. Together with Dr. Robert Brucker of
11 UC Berkeley, Mr. Conte traveled to health clinics and participated in medical lectures to discuss
12 nutritional programs for persons with HIV/AIDS. *See* Exhibit A.

13 Mr. Conte's other work through BALCO, including his testing of children for lead poisoning, is
14 described well in the letters from Dr. Brucker and Jim Schmaltz attached as Exhibit A. In addition to
15 providing blood analysis and nutritional counseling for athletes, Mr. Conte was employed by Genentech,
16 Inc. to analyze their pre-clinical samples. *See* Exhibit D, letter from Brent R. Larsen, Ph.D., Genentech.
17 Mr. Conte's development of tests to assess mineral and trace element status in the blood was recognized
18 as providing nutritionists and health care professionals with valuable and essential tools for health
19 promotion and disease prevention. *See* Exhibit E, letter from Robert M. Hackman, Ph.D., University of
20 Oregon. Mr. Conte also contributed to several scientific studies on the effects of vitamin and trace
21 element supplementation on the elderly and on athletes. *See* Exhibit F, abstracts of studies.

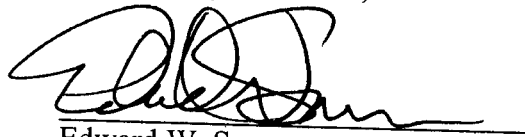
22 One other matter counsel wishes to bring to the Court's attention is Mr. Conte's health. Mr.
23 Conte is under medical care for chronic Hepatitis C and for hypertension. *See* Exhibit G, letter from Dr.
24 Richard Morgan. Because some of the more significant manifestations of his health problems appear to
25 be stress-related, Dr. Morgan notes that it is important for Mr. Conte's prognosis with his medication
26 conditions that, to the extent possible, Mr. Conte be in a low-stress environment.

CONCLUSION

Counsel for Mr. Conte respectfully request that the Court consider the information contained in this submission and in the October 4 submission in determining the sentence for Mr. Conte. Counsel also request that, for the reasons stated in the defendant's and the government's submissions, and for the reasons included in the thoughtful analysis of the Presentence Report, the Court impose the sentence that has been agreed upon by the parties and has been recommended in the Presentence Report.¹

Dated: October 11, 2005

Respectfully submitted,



Edward W. Swanson
Mary McNamara
Swanson & McNamara LLP
Counsel for Defendant Victor Conte, Jr.

¹ Counsel request the Court make one modification to the recommended conditions of supervised release. Recommended condition # 9 states that Mr. Conte shall not have contact with codefendants Greg Anderson and Remi Korchemny. Because these three individuals have substantial legitimate business connections, Magistrate Judge Maria Elena James permitted them to have contact while on pretrial release, but only for business purposes. Counsel request that the same limitation be placed on Mr. Conte for the period of his supervised release.

CERTIFICATE OF SERVICE

I, the undersigned, certify:

That I am a citizen of the United States, over the age of eighteen years, and not a party to the within cause; I am employed in the City and County of San Francisco, State of California; my business address is 300 Montgomery Street, Suite 1100, San Francisco, California 94104.

On this date, October 11, 2005, I caused to be served on the interested parties hereto, a copy of:


**DEFENDANT VICTOR CONTE, JR.'S SUBMISSION CONCERNING
PERSONAL BACKGROUND**

- (X) By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, California, addressed as set forth below;
- () By having a messenger personally deliver a true copy thereof to the person and/or office of the person at the address set forth below.
- () By delivering a true copy thereof to "Federal Express" to be delivered to the person at the address set forth below.
- () By serving a true copy by facsimile to the person and/or office of the person at the address set forth below;

Jeff Nedrow
Assistant United States Attorney
280 S. First Street, Room 371
San Jose, CA 95113

Jim Schloetter
U.S. Probation
450 Golden Gate Avenue, 17th Floor
San Francisco CA 94102

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge, and that this Certificate has been executed on October 11, 2005, at San Francisco, California.


Kristina Alexander

September 6, 2005

The Honorable Susan Illston
United States District Court
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Illston:

My name is Veronica Ekhardt. I am Victor Conte's youngest daughter. I am writing this letter in support of my father.

What I want the Court to know is what a remarkable father Victor Conte has been. When I was 10 years old, the house in which our family was living caught fire and burned down. The fire was traumatic for the entire family, but it had the worst effect on my mom. She was already suffering from mental illness, and the situation caused her condition to deteriorate and led her to start using drugs. As my mom's condition got worse and worse, my parents eventually split up.

For most families I would say that divorce is a terrible thing, but not for mine. When my parents first split up, I was living with my mom. It was an extremely difficult and unhappy environment for all of us. My oldest sister was the first to leave, and she moved to live with our father. Not long after that, I left as well, and went to my dad's house with nothing but the clothes on my back, and experienced the strongest sense of relief and security that I have ever felt in my life. My father welcomed me with open arms, and eventually all three of us girls moved in with him. Looking back, I can honestly say that going to live with my dad was the best decision that I have ever made.

My dad worked a lot when I was very young – that way my mom could stay home and raise us kids while he was providing for the family. When my parents separated, it was a tremendous change for him to take on the full responsibility of raising three young girls completely on his own. I will forever be grateful that he had the courage to step up and gladly take on that responsibility when we needed him most.

There is no one in this world whose love and guidance I respect more than my worthy and admirable father. I remember countless nights where he would sit me down at the dining room table and talk to me for hours, teaching me life lessons and sharing his wisdom. He always encouraged us to strive for excellence, teaching us to become the best women that we could possibly be. In retrospect, I see that our house burning down was a blessing in disguise – enabling my father to shine as the anchor in our lives through all of the difficulties and turmoil, giving him the opportunity to influence our lives in the most wonderful and commendable way. I wouldn't have become the woman – and the parent – that I am today if it weren't for his influence and inspiration. People may find it

hard to believe considering his current situation, but I truly believe that my father was the most incredible role model, setting the greatest example of courage and strength in adversity. He taught me that it isn't your mistakes, but how you deal with them that defines who you are.

While this case has gone on, my father has continued to be a real inspiration and support for me. I see him every week, and he is very close with my daughter. He is a generous, loving, supportive father and grandfather, and someone I need very much in my life.

I thank the Court for reading this letter, and for considering it while sentencing my father.

Respectfully,

A handwritten signature in cursive script that reads "Veronica Ekhardt". The signature is written in dark ink and is positioned above the printed name.

Veronica Ekhardt

October 1, 2005

The Honorable Susan Illston
The United States District Judge
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Illston:

My name is Alicia Conte and I am the middle daughter of Victor Conte, Jr. I am 25 years old and writing this letter to the court in support of my father.

I was not an easy child for my father to raise as a single parent. I was diagnosed with ADHD at 14 years of age and had some academic and well as legal problems in high school. As hard as it was for him, my father managed to help me through these very difficult times. He even had me put on probation in order to get me under control. It worked, even though I resisted him every step of the way. Miraculously, I received straight A's in school for the very first time in my life. I was so very proud of what I had accomplished and know that I would never have done it without his strict parenting and discipline. Thereafter, I excelled in school and was surprisingly able to graduate from high school on time.

After I graduated, I moved to Rocklin, California to go to College. My dad helped me with rent and other monthly expenses as long as I went to school full-time and got good grades. With his support I was able to obtain an AA degree from Sierra College.

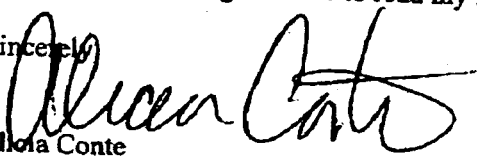
I have both an older and younger sister and only now do I fully realize how difficult it was for my father to raise the three of us as a single parent. I feel he did a great job of raising us to be responsible, considerate and conscientious adults.

I am currently working as a mortgage broker in Citrus Heights, California. I have been in the home mortgage business for about four years now and have been doing very well. I owe a lot of my success thus far in life to my dad's coaching, and training. He taught me to be honest in business and to have a good work ethic.

I want you to know that I am very proud of my father and I love him very much. He has always been helpful to others and I've never known him to purposely harm anyone. Please know that my father is a positive person and that he learns from his mistakes.

Thank you for taking the time to read my letter.

Sincerely,


Alicia Conte
(916) 256 6486

The Honorable Susan Illston
United States District Judge
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Illston,

My name is Kisha Ann Conte. I am the oldest daughter of Victor Conte, Jr. and I am 27 years old. I lived with my father until I moved away to college at the age of 20 and again for couple years after I graduated. My mother and father separated in 1994 when I was 16 years old. Since that time, my father has been the single parent in our household, which also includes my two younger sisters, Alicia and Veronica. My father has been an outstanding role model for the three of us.

My dad has had a positive effect upon the lives of many people. Over the past 25 years, the many kids and teenagers who grew up with us and were always in and out of the Conte house, are now adults that are proud to have a relationship my dad. My friends love talking with my dad and asking him for advice. He has always made himself available to sit down and talk with us at the dinning room table. He loves sharing stories from his past and telling us what he has learned from his mistakes. He's always attempted to help others make the right decisions. He says things like "it is ok to make mistakes, but it's important to learn from them, and then keep going."

I graduated with Summa Cum Laude honors from the University of California, at Riverside with a Bachelor of Science degree in Business Administration. During college, I called my dad almost everyday to talk with him and get his advise. He was always there to congratulate me on my accomplishments and walk me through my fears. I felt so lucky and not alone, while being 400 miles away from home, because he was there to provide guidance whenever I needed it. I love my dad and I am full of respect and admiration for him. He has always pushed me to do my best and strive to do even better. I will always remember seeing him in the audience and feeling so proud that he was there the day I received my college degree. My father has, by far, been the most influential person in my life.

There have been many times in my life when I have gone to my father because someone I know needed help. He taught me compassion and that I should always talk to him about my problems. Whenever someone close to me was ever sick or in need, I would often ask my dad to help them financially. He would always give what he could and try to provide guidance as well. Many people are grateful to him for being the generous and kind man that he is.

I wanted to let you know that I love my dad a lot and I am sad that I am going be without him for the very first time in my life. I honor, respect and appreciate your consideration of what I have had to say.

Respectfully,

Kisha A. Conte

Kisha A. Conte

(650) 255 3820

The Honorable Susan Illston
United States District Judge
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Illston:

I am writing this letter in support of my oldest son, Victor Conte, Jr. Being his mother, I have of course known him all of his life. I chose not to work during the time my three children were growing up. I wanted to spend as much time with them as possible, so that they would have plenty of parental guidance and support. After all of my children became adults, I went to work as a bookkeeper.

Victor and I have always been close and I have always been supportive of him. I supported him when he participated in sports during his school years, when he was in the music business and when he became interested in the medical laboratory industry and finding ways to help people to improve their health. He has always attempted to keep me informed regarding his interests and activities. His father and I routinely attended his athletic events and musical performances when possible.

I have spent many vacations and had a lot of fun times with Victor and his family. He was very supportive of me when his father, Victor Conte, Sr., died of cancer in 1998. He was very helpful throughout the funeral process. Victor has always supported and helped the people that he has worked with over the years.

I feel that Victor has done an excellent job in raising his three daughters. He was a single parent for several years of their upbringing. He was very supportive of them, furnished them with a good home life and routinely helped them with their schooling. Victor has taught his daughters to be very kind and considerate to their grandparents.

Victor's entire immediate and extended family love and respect him very much.

I thank the court for taking into consideration any of the thoughts I have presented in regards to this process.

Sincerely,



Shirley Conte
(559) 841 7219

09/29/2005

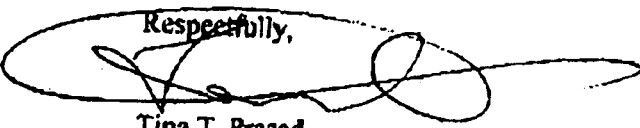
The Honorable Susan Illston
United States District Judge
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Illston,

My name is Tina Prasad and I am writing this letter in regards to Victor Conte. I have known Victor and his family for almost 20 years. I actually went to High School with his oldest daughter Kisha Conte. Since I first met Victor, he has always treated me like one of his own daughters. Victor and his family have helped me through a lot of very tough times over the years. I actually consider him to be like a father figure. For instance, my mother was diagnosed with cancer in April of 1997 and past away after struggling with the disease for six months. I was totally devastated at the time and did not know how to deal with it, especially coming from a low income family. My father is a life-long diabetic and has been blind since the early 1980's. Victor offered to help us in anyway that he could and did so in many ways. At the time this was all taking place, I was employed full-time and had no way of taking care of my mother during the day. Victor often made arrangements for one of his family members to take care of her while I was at work in an attempt to pay the family bills.

Please know that Victor is a good man and he has helped my family as well as others. I would greatly appreciate you considering my letter when deciding his sentence.

Respectfully,



Tina T. Prasad
(650) 346 8462

September 30, 2005

The Honorable Susan Illston
United States District Court
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Illston:

My name is Robert Brucker. I have known and worked with Victor Conte for twenty years and I am writing this letter in his support.

I have a PhD in Molecular Biology and Chemistry from the University of California at Berkeley. I am licensed by the State of California Department of Public Health in clinical laboratory science. I have been the technical director or worked for hospital based and commercial clinical reference laboratories for more than 30 years.

I first came in contact with Victor Conte in 1986 while I was directing a clinical laboratory in Santa Barbara, California. At that time he was the manager of a company in the Bay Area that routinely sent blood and urine samples to our laboratory for mineral, trace element and toxic metal testing. He represented a group of physicians who were routinely monitoring the nutritional status of their patients. I was impressed by Victor's high level of concern that the patients of his physician clients received accurate and prompt turn around of the test results used in the diagnosis of illness.

Because of my growing regard for Victor and his keen interest in a new and emerging area of nutritional medicine, I began to assist him in developing a high quality clinical reference laboratory in the Bay Area. This laboratory was licensed by the California State Department of Public Health, routinely passed annual state quality control inspections and provided high quality service to a large group of physicians. Victor continually demonstrated his integrity and I realized it was a labor of love for him. He treated his laboratory employees with fairness and concern for their health and safety both on and off the job.

Victor was instrumental in helping to design, fund and conduct a major clinical research trial involving auto-immune disease. Along with a team of university medical school collaborators, he was invited to present research data at a national meeting sponsored by the US Food and Drug Agency. In addition, Victor provided funding for several studies designed to answer fundamental questions regarding nutrition and athletic performance. He was also active, together with me, in research designed to determine the best nutritional programs for patients infected with AIDS. Victor was a pioneer in this area and traveled to many health clinics, and participated in key medical lectures intended to help AIDS' patients improve the quality of their lives. He did this during the early stages of the medical community's awareness of the ravages of this horrible disease.

I worked closely with Victor and was always impressed by his helpfulness, generosity and fairness to others. He constantly attempted to provide medical assistance to people who desperately needed it. I found him to be less concerned about financial gain and more concerned about the health and safety of the less fortunate. In spite of the fact that it was not financially profitable, he developed the clinical laboratory capability and licensure to test young children for lead poisoning. His motivation was purely a measure of his sense of humanity. He realized that this was a major health concern that was not being addressed in California because of financial pressures on the funds allocated to public institutions and state agencies to reimburse for this critically needed service. As a result, Victor stepped up and provided resources and time needed to help make this service available to the children of the state when other laboratories would or could not.

Victor was both an earnest student and someone who became a great teacher. I would not hesitate to trust and place my confidence in him. He has demonstrated that he can always be counted on to help others who are less fortunate than himself.

I thank you for the opportunity to speak on his behalf and greatly appreciate your time and consideration.

Sincerely,



Robert Brucker, PhD

California State Department of Public Health Clinical Scientist License #00315
(805) 701 5386

September 30, 2005

The Honorable Susan Illston
United States District Court
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Judge Illston:

My name is Jim Schmaltz. I am a writer and editor, currently the editor in chief of *Physical* magazine, a sports nutrition publication serving GNC customers, and editorial director of *Get Active!* magazine, a fitness publication that is distributed to gyms around the country. Previous to my current position, I was an editor and writer at Weider Publications for 14 years, working at Flex and Muscle & Fitness in various capacities.

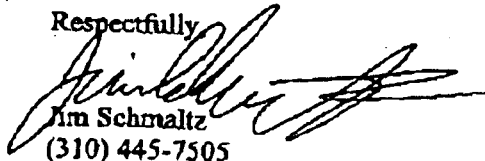
I have known Victor Conte for more than seven years, first as an interview subject and then as a friend. It's unusual to have a journalist's profile subject become a friend, but that's a measure of Victor's generosity and gregariousness.

He has made multiple positive contributions to the sports nutrition industry, inventing an entire category of products that has proven beneficial to athletes and everyday exercisers. But what's really impressed me about Victor is his care and concern behind-the-scenes for the athletes he works with. I've known him to personally intervene to assist athletes with health concerns, utilizing his professional skills for those who have fallen on hard times, don't have health insurance and need advice and nutritional counseling. Some professional bodybuilders who have made self-destructive choices and ended up in dire physical straits have counted on Victor to help them get their lives back together. He asks for nothing in return. That is unfortunately a rare quality in this industry.

My objectivity as a journalist is essential, and I know that a personal involvement in a potential profile subject is a risk to my professional pedigree, so the fact that I'm writing this letter is extraordinary in and of itself. I believe Victor's fundamental integrity and humanity have been unfairly absent in the public persona produced by my colleagues in the media. I believe his unselfish commitment to the well-being of many in his personal and professional circles should be taken into consideration during his sentencing.

I thank the Court for reading this letter.

Respectfully


Jim Schmaltz
(310) 445-7505

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EDITOR-IN-CHIEF
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BIOLOGICAL TRACE ELEMENT RESEARCH

In This Issue: A New Feature
Accelerated Articles

Elevated Serum Silicon Levels in Women
with Silicone Gel Breast Implants,
*by Suzanne S. Teuber, Robert L. Saunders,
Georges M. Halpern, Robert F. Brucker, Victor Conte,
Brian D. Goldman, Edward E. Winger, W. Graham Wood,
and M. Eric Gershwin*

ISSN: 0163-4984



HUMANA PRESS

Serum Silicon Levels are Elevated in Women with Silicone Gel Implants

S.S. Teuber^{1,2}, R.L. Saunders¹, G.M. Halpern¹, R.F. Brucker³, V. Conte³, B.D. Goldman³, E.E. Winger³, W.G. Wood³, and M.E. Gershwin^{1*}

¹Department of Internal Medicine, Division of Rheumatology, Allergy and Clinical Immunology, University of California, Davis, School of Medicine, Davis, California, 95616, USA.

²Department of Veterans Affairs Northern California System of Clinics, Pleasant Hill, California, 94523 USA.

³Bay Area Laboratory Co-operative (BALCO), 1520 Gilbreth Road, Burlingame, California, 94010, USA.

Abstract

The metabolic fate of silicone gel leaked into the body from an implant is unknown. In this study, serum from 72 women with silicone gel breast implants and 55 control women was blindly assayed by inductively coupled plasma atomic emission spectroscopy (ICP-AES) for elemental silicon. Samples were processed using materials free of silicon. The mean silicon level in controls was 0.13 ± 0.07 mg/l (range 0.06 - 0.35 mg/l), while in implant patients, the mean was significantly higher at 0.28 ± 0.22 mg/l (range 0.06 - 0.87 mg/l) ($P < 0.01$, Student's *t*-test with correction for unequal variances). Using the mean of the control group + 2 SD as a cutoff for normal range (0.27 mg/l), 25/72 (34.7%) implant patients exceeded this value, compared with 2/55 (3.6%) controls. There was no significant correlation between past rupture of one or both implants, current rupture at the time of the blood draw or the number of years with implants and silicon levels. The results suggest that elevations of serum silicon are seen in many women with silicone gel breast implants. The kinetics of this elevation and the actual chemical species of the measured silicon remain to be determined.

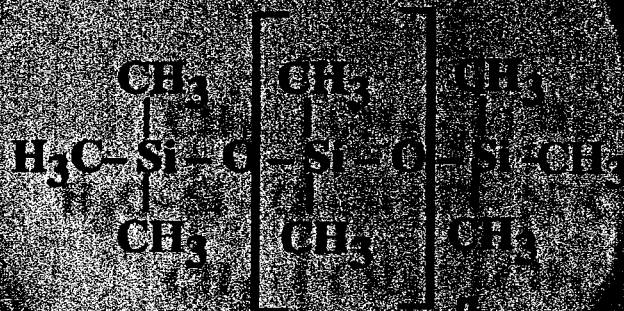
Introduction

There are current concerns that long-term exposure to polydimethylsiloxane (PDMS) or other components of gel-filled breast implants, such as amorphous silica in the implant shell [1], may be associated with autoimmune or inflammatory diseases in some individuals [2]. It is well-known that the gel will bleed through the implant shell over time [3]. In addition, there is potential for mechanical breakdown and degradation of the implant shell due to hydrolysis, mechanical forces, and perhaps effects of oxidative attack from the body's

*Disclosures: M.E. Gershwin has served as an expert witness for plaintiffs attorneys. BALCO is a reference lab for trace mineral analysis. This presentation was based on a paper currently in press in *Biological Trace Element Research* (1995) [9].

M. Potter and N.R. Rose (Eds.)

Immunology of Silicones



Springer

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Accelerated Article

Elevated Serum Silicon Levels in Women with Silicone Gel Breast Implants

SUZANNE S. TEUBER,^{*}^{1,2} ROBERT L. SAUNDERS,¹
GEORGES M. HALPERN,¹ ROBERT F. BRUCKER,³
VICTOR CONTE,³ BRIAN D. GOLDMAN,³ EDWARD E. WINGER,³
W. GRAHAM WOOD,³ AND M. ERIC GERSHWIN¹

¹*Division of Rheumatology, Allergy and Clinical Immunology,
University of California, Davis, School of Medicine, Davis, CA
95616;* ²*Veterans Administration, Northern California System
of Clinics, Pleasant Hill, CA;* and ³*Bay Area Laboratory
Co-operative (BALCO), Burlingame, CA*

Received July 22, 1994; Revised October 23, 1994;

Accepted November 20, 1994

ABSTRACT

The metabolic fate of silicone gel leaked from an intact or ruptured prosthesis is unknown. In this study, serum was blindly assayed by inductively coupled plasma atomic emission spectroscopy (ICP-AES) for elemental silicon in 72 women with silicone gel breast implants and 55 control women (mean age 48 yr, both groups). Blood was drawn and processed using silicon-free materials. The mean silicon level in controls was 0.13 ± 0.07 mg/L (range 0.06–0.35 mg/L), whereas in implant patients, the mean was significantly higher at 0.28 ± 0.22 mg/L (range 0.06–0.87 mg/L) ($P < 0.01$, Student's *t*-test with correction for unequal variances). Using the mean of the control group + 2 SD as a cutoff for normal range (0.27 mg/L), 25/72 (34.7%) implant patients exceeded this value, compared with 2/55 (3.6%) controls. There was no significant correlation between past rupture of one or both implants, current rupture at the time of the blood draw, or the number of years with implants and silicon levels. The results suggest that serum silicon levels are elevated in many women with silicone gel breast implants. The chemical species involved and kinetics of this elevation remain to be determined.

*Author to whom all correspondence and reprint requests should be addressed.

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TB 192
(916) 752-2884
FAX: (916) 752-4669

DAVIS, CALIFORNIA 95616-8660

December 20, 1995

Victor Conte
Executive Director
BALCO Laboratories
1520 Gilbreth Road
Burlingame, CA 94010

Dear Victor:

As discussed, we are very interested in participating in a series of collaborative studies involving nutrition and autoimmune disease as well as nutrition and HIV infection. In addition, we are also interested in collaborative studies involving nutrition and athletes.

It is my understanding that our investigations will include parameters such as macronutrients, micronutrients and free radical/antioxidant balance.

We will need funding for the research subjects travel and parking costs, etc., as well as for blood collection and transport. In addition, we will also need funding for publication costs. It is my understanding that the funding for these studies will be provided by BALCO Laboratories, Inc. and The Met-Rx Foundation for Health Enhancement.

After each study is performed and hopefully with good data, we will vigorously pursue publication and have the papers originate from the University of California and appropriate co-authorship from your groups.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eric Gershwin", with a stylized flourish at the end.

M. Eric Gershwin, M.D.
The Jack and Donald Chia Professor of Medicine
Chief, Division of Rheumatology,
Allergy and Clinical Immunology

MEG/tla

Marcus A. Conant, M.D.
Medical Director

Denis P. Houvier, D.O.
Virginia I. Cafaro, M.D.
Brendan J. Flynn, M.D.
Jon D. Kaiser, M.D.
Lee R. Liskey, M.D.
Richard A. Stryker, M.D.

Mark L. Illeman, FNP
Kurtis M. Opp, PA-C
Clinical Directors

Gordon R. Sanford, PA-C
Karen I. Cohen, R.N.
Susanna C. Klely, R.N.
Anne M. Stahl, R.N.

Joseph D. Robinson
Administrator

February 7, 1996

Mr. Victor Conte
Executive Director
Balco Laboratories
1520 Gilberth Road
Burlingame, CA. 94010

FAX#: 415-697-6576

Dear Victor,

The Conant Medical Group is the largest private HIV clinic in San Francisco. At the present time we are providing primary care for some 4,000 HIV infected patients.

In addition, we are conducting 14 clinical trials including studies of antiretroviral agents and protease inhibitors.

Finally, one of our colleagues, Dr. Jon Kaiser, runs a large Wellness Clinic where patients are evaluated for other factors in their life which may improve their health and well being. As part of this evaluation, Dr. Kaiser employs a nutritionist and gives nutritional counseling.

I look forward to working with you to design a research protocol that includes macronutrients, micronutrients and free radical/antioxidant balance. We can examine the relationship to immunological markers of HIV disease and HIV wasting syndrome.

I understand the funding of these studies is to be provided by Balco Laboratories, Inc. and the Met-RX Foundation for Health Enhancement.

At each study's conclusion, we will promptly pursue publication of the data with appropriate co-authorship from your groups.

☐
General & HIV Medicine
1635 Divisadero Street
Suite 600
San Francisco
California 94115
415-351-3100
fax 415-923-0337

☐
Wellness Center
1635 Divisadero Street
Suite 625
San Francisco
California 94115
415-351-3140
fax 415-923-7350

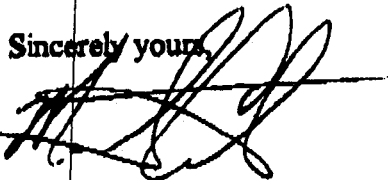
☐
Dermatology & HIV Medicine
550 Parnassus Avenue
Suite 80
San Francisco
California 94111
415-661-2011
fax 415-661-627

☐
Clinical Research
1635 Divisadero Street
Suite 60
San Francisco
California 94115
415-351-3111
fax 415-346-75

Page Two
Mr. Victor Conte
February 7, 1996

I look forward to meeting with you in the near future to discuss an excellent study design that will produce meaningful data.

Sincerely yours,



Marcus A. Conant, M.D.
Medical Director
Conant Medical Group

MAC/pyp

wpdosa/research/bakoolabs0296

Genentech, Inc.

26 January 1990

460 Point San Bruno Boulevard
South San Francisco, CA 94080
(415) 266-1000
TWX: 9103717168

Victor Conte
BALCO Incorporated
1520 Gilbrath Drive
Burlingame, California 94010


Dear Victor,

Re: ICP Analysis of Formulated Pharmaceuticals

This note is to commend you for the professional job performed by BALCO on the pre-clinical samples you analyzed. The rapid turn-around time for both the analysis and final reports was genuinely appreciated. The analysis you performed would have taken many hours to complete using our Atomic Adsorption Instrument.

ICP analysis, using your instrumentation, will now be a routine procedure we will complete on all our pre-clinical lots. The accuracy and sensitivity of your instrument will ensure the safety of our products.

Sincerely,


Brent R. Larsen, Ph.D.
Analytical Chemistry

BRL:BAJ



UNIVERSITY OF OREGON

August 28, 1992

Mr. Victor Conte
Executive Director
BALCO Laboratory
1520 Gilbreth Road
Burlingame, CA 94010

Dear Victor:

The use of ICP and graphite furnace analysis to assess mineral and trace element status of individuals provides nutritionists and health care professionals a valuable and essential tool for health promotion and disease prevention. The progress BALCO has made in pushing the frontiers of clinical medicine is noteworthy. I commend you for your vision and dedicated leadership.

I have recently begun a research study with the Seattle SuperSonics basketball team. One of the primary elements of the program is ICP mineral analysis, which we will be conducting prior to the season, at the halfway point, and prior to the playoffs. I anticipate that we will be able to identify marginal nutritional status in players and take corrective action before significant impairment to their playing ability and health status occurs. We will be able to construct customized nutritional programs which accommodates individual metabolism and targets specific clinical weaknesses, rather than using a "one-size-fits-all" approach. Using ICP analysis, the customized approach finally allows me to put into action the concept of "biochemical individuality" first advanced by Dr. Roger Williams over 40 years ago. As such, the ICP program is a revolution in nutritional medicine.

Since beginning the program with the Sonics, I have had numerous referrals of specific professional athletes seeking nutritional support for their athletic and personal endeavors. We intend to make our program available to other professional, collegiate and top high school teams, as well as to individuals in health and fitness clubs throughout the country. The mineral profile provided by BALCO will be an integral component of our program as we expand beyond the Sonics.

The application of ICP analysis brings contemporary science to the consumer. This technology advances the atomic frontier of clinical medicine and nutrition science. I look forward to continued association with you and with BALCO, as I am certain that we will be contributing to advances in health and athletic performance among scores of individuals.

Sincerely,

A handwritten signature in black ink, reading "Robert M. Hackman".

Robert M. Hackman, Ph.D.
Associate Professor
Nutrition and Human Performance

Effect of vitamin and trace-element supplementation on immune responses and infection in elderly subjects

RANJIT KUMAR CHANDRA

Ageing is associated with impaired immune responses and increased infection-related morbidity. This study assessed the effect of physiological amounts of vitamins and trace elements on immunocompetence and occurrence of infection-related illness. 96 independently living, healthy elderly individuals were randomly assigned to receive nutrient supplementation or placebo. Nutrient status and immunological variables were assessed at baseline and at 12 months, and the frequency of illness due to infection was ascertained.

Subjects in the supplement group had higher numbers of certain T-cell subsets and natural killer cells, enhanced proliferation response to mitogen,

increased interleukin-2 production, and higher antibody response and natural killer cell activity. These subjects were less likely than those in the placebo group to have illness due to infections (mean [SD] 23 [5] vs 48 [7] days per year, $p=0.002$).

Supplementation with a modest physiological amount of micronutrients improves immunity and decreases the risk of infection in old age.

Lancet 1992; 340: 1124-27.

ADDRESS: Memorial University of Newfoundland, and World Health Organisation Centre for Nutritional Immunology (Prof R. K. Chandra, FRCP). Correspondence to Prof R. K. Chandra, Center for Human Nutrition, School of Hygiene and Public Health, Johns Hopkins University, 615 North Wolfe Street, Baltimore, Maryland 21205, USA.

* BALCO (Bay Area Laboratory Co-Operative) provided trace-element analysis for this study

The Effect of Zinc and Magnesium Supplementation on Erythrocyte Levels in a World-Class Athlete

R.G. Lefavi, PhD, V. Conte, J.L. McMillan, EdD, and R.E. Keith, PhD, RD,
School of Health Professions, Armstrong State College, Savannah, GA, and
BALCO Laboratories, Burlingame, CA

Red blood cells (RBCs), which have a slow turnover rate, serve as a storage compartment for both zinc (Zn) and magnesium (Mg). Thus, Zn and Mg levels in RBCs may accurately reflect a person's status of these minerals. Additionally, exercise-induced Zn and Mg losses place athletes at risk of suboptimal Zn and Mg status. The purpose of this study was to assess the effect of Zn and Mg supplementation on RBC levels in an athlete ingesting inadequate levels of these minerals. A 33-year-old, 96.6-kg, world-class bodybuilder on a strict diet of 3,900 kcal, containing 4.2 mg Zn and 255 mg Mg daily (established from a 3-day dietary recall), participated. RBC Zn and Mg levels were determined using an inductively coupled plasma atomic emission spectrometer at Days 1, 45, and 90 of the competitive season, with the athlete ingesting daily 25 mg Zn (12.5 mg as citrate; 12.5 mg as aspartate) and 450 mg Mg aspartate capsules on an empty stomach at night, beginning Day 1. RBC Zn levels of 9.43, 9.88, and 9.98 mg/L at Days 1, 45, and 90, respectively, consistently increased and approached the norm of 11 mg/L. RBC Mg levels of 43.90, 45.53, and 47.67 mg/L also increased and approached the norm of 48 mg/L. Results indicate that Zn and Mg supplementation may help maintain adequate and available stores of these minerals in athletes with suboptimal Zn and Mg intake. However, further research is necessary to (a) confirm the validity of RBC Zn and Mg levels as a reliable index of their status in athletes, and (b) determine the effect of Zn and Mg supplementation in athletes as measured by other indicators of mineral status.

International Journal of Sport Nutrition, Volume 5, Number 1, March 1995

REDUCED SERUM MINERAL LEVELS IN BASKETBALL PLAYERS AFTER
SEASON: ASSESSMENT BY ICP ATOMIC EMISSION SPECTROSCOPY

R. G. Lefavi, J. L. McMillan, J. A. Streater, V.
Conte, J. J. Valente, S. R. Groninger, and L. E.
Hardegreer, Armstrong State College, Savannah, GA,
and BALCO Laboratories, Burlingame, CA.

Recently we described the assessment of erythrocyte mineral level changes in a world-class athlete using inductively coupled plasma (ICP) atomic emission spectroscopy (AES). The objectives of this study were to further investigate the efficacy of the ICP/AES method in sports nutrition research and to measure changes in levels of various serum minerals vulnerable to exercise-induced stress in intensely-training athletes. Blood was drawn from 10 collegiate male basketball players before official practice began and immediately following the competitive season. Diets were monitored and remained unchanged throughout the four month period. Serum Mg, Zn, Fe, Cu, Ca and P were assessed by ICP/AES and t-tests determined significant differences between pre-season and post-season mineral levels. Mean values for all minerals decreased pre-season to post-season, however four decreased significantly: Mg from 21.4 ± 1.12 mg/L to 17.9 ± 0.54 mg/L ($p < .001$), Zn from 1.39 ± 0.30 mg/L to 0.82 ± 0.13 mg/L ($P < .025$), Cu from 1.03 ± 0.05 mg/L to 0.91 ± 0.10 mg/L ($p < .023$), and Ca from 100 ± 5 mg/L to 92 ± 3 mg/L ($p < .006$). These values are consistent with accepted norms in the accurate determination of trace minerals in body tissues. Though further research is needed to substantiate these findings, results suggest that (1) ICP/AES may be a valid assessment tool for trace mineral analysis in sports nutrition research, and (2) sports scientists should monitor levels of Mg, Zn, Cu and Ca in intensely-training athletes.

RICHARD B. MORGAN, M.D., INC.

50 S. San Mateo Drive, Suite 270
San Mateo, California 94401

Telephone (650) 340-9981
Fax (650) 340-1336

PULMONARY DISEASES
AND
INTERNAL MEDICINE

August 30, 2005

Karenina Parker
United States Probation Officer
United States Probation Office
450 Golden Gate Avenue, 17th Floor
San Francisco, CA 94102

Re: Victor Conte

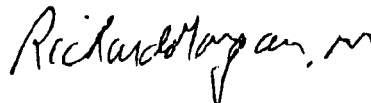
Dear Ms. Parker:

I am a medical doctor, specializing in Internal Medicine and Pulmonary Diseases, and have treated Victor Conte as his primary care physician from May 12, 2005 to the present. I provide this letter to you on Mr. Conte's general medical status, in advance of his sentencing in his federal criminal matter. I note that Mr. Conte is also under the care of Dr. Mark Rosenberg, a gastroenterologist (for chronic Hepatitis C) and Dr. David Caro, a urologist (for a lower urinary tract disorder).

In addition to Hepatitis C and his urinary tract disorder, Mr. Conte suffers from hypertension, which may require medication to ensure proper management. I have not yet prescribed medication for this condition because of his recent diagnosis of Hepatitis C. In view of his fairly optimistic results on a recent liver biopsy, however, I will likely prescribe medication for the hypertensive condition. Whether or not I medicate him, Mr. Conte will need to be placed on salt restriction and will need caloric restriction in order to lose weight while he serves his prison sentence.

A few months ago, Mr. Conte experienced symptoms of acute fatigue, malaise and insomnia. These symptoms coincided with his being diagnosed with Hepatitis C. Mr. Conte has experienced subjective improvement recently and it is my medical opinion that his earlier manifestation of these symptoms was stress-related. It is important for Mr. Conte's prognosis with respect to Hepatitis C, hypertension, and his other medical conditions that he be maintained as far as possible in a low stress environment.

Sincerely,



Richard Morgan, M.D.